


ATTEST: 
SCARLET SWOBODA, City Secretary

VICTORIA CITY COUNCIL
and
CHARTER REVIEW COMMITTEE
January 6, 2009

CALL TO ORDER

A special meeting of the Victoria City Council and Charter Review Committee was called to order by Mayor Will Armstrong at 3:30 p.m. Tuesday, January 6, 2009 in the Council Chambers, 107 W. Juan Linn, Victoria, Texas.

MEMBERS PRESENT

Will Armstrong, Mayor
Philip Guittard
Lewis Neitsch
Paul Polasek
David Hagan
Jim Wyatt
Tom Halepaska

COUNCIL ADVISORS PRESENT

Jan Scott
Terry McGowan
Sharon Steen
Gary Middleton
Jack A. Mullins
Joseph Capers
Bill Russell – *absent*

STAFF PRESENT

Charles Windwehen, City Manager
Miles Risley, City Attorney
Linda Champion, Assistant City Attorney
O. C. Garza, Public Information Officer
Scarlet Swoboda, City Secretary

Review of City Charter and Proposed Revisions

Russell Pruitt, 402 Sherwood, spokesman for Concerned Citizens for Responsible Government (CRG) addressed the committee on the invitation of Mayor Armstrong to address the proposed Charter amendments that his group was petitioning to have placed on the ballot in May.

The group’s proposals were as follows:

- Change the Uniform Election Date to November from May for City Council Elections.
- Set term limits for all elected city officials to no more than two terms.
- City Council shall not spend tax dollars on behalf of any indicted City Official unless approved by the voters.
- Provide that the City Attorney be elected at large instead of appointed by the City Council.
- Change petition signature requirements from ten percent to five percent for Initiative, Referendum, and Recall petitions.
- Victoria Elections Administrator to certify petitions instead of the City Secretary.

Mayor Armstrong questioned how term limits would better serve the citizens than the current system. Mr. Pruitt responded that the President of the United States only serves two terms and there is no higher office than that. He suggested that the Council gets ingrained and they have an element of support, and a more financed campaign giving the incumbent a better chance. His group also felt that there would be greater voter turnout if the election were held in November.

Mayor Armstrong stated that he served three-terms on City Council in the 1970’s and questioned if under their proposal he would be able to run again years later? He suggested that some

of the proposals from the group may have unintended consequences. Some of those consequences could be: Council person would be a lame duck and bureaucracy would be strengthened by having a revolving door on Council. He personally wanted to go on the record that the public had not voted on this, so we don't know if that was what the public wants.

Mr. Middleton agreed with the Mayor and advised that there may not be anyone wanting to run. As for well financed campaigns, those races are not like the national races. Anyone can run against anyone currently on Council every three-years, the public already controls who sits on Council. He pointed out that San Antonio had gone to two two-year terms for their Council, but have since changed it to four two-year terms because they found that there was a lack of continuity and the learning curve was such that things were not getting done.

Mr. Mullins commented that it boiled down to reputation and the bigger the budget the more perceived need for term limits, because people get too close to big financial decisions over long periods of time. It is perceived by many people to be a real temptation for kickbacks on contracts or sweetheart deals.

Mayor Armstrong questioned what other State offices had term limits? Cm. Hagan commented that the President of the United States and Attorney General were expected to hit the ground running and grasp the concepts, ideas, and responsibilities at a rapid pace. Hopefully those elected should be able to do the same. He indicated that it did not take him an entire term to get on board and contribute.

Ms. Scott pointed out that there was a distinction between those positions as they were paid positions, whereas City Council was basically a volunteer position. It had been her experience that most individuals on City Council had other things they were responsible for other than serving on the Council.

Ms. Steen suggested that some projects currently going on in the community would not have happened if the Council members had been subject to term limits. It had also been her experience that it was difficult to get really good people to run for office. Currently there was a strong Council, and she did not think there would be a horde of people running for office.

Mr. McGowan commented on the value of institutional memory, suggesting that would be lost if there were term limits. The City could get into trouble without that memory. He suggested that the ballot box was where term limits were set. He further suggested that term limits cause a barrier that prevents the public from continuing a valuable member of the Council.

Cm. Hagan commented that he was not a member of Concerned Citizens for Responsible Government, but he supported their efforts and helped get signatures on the petition.

Cm. Halepaska expressed concern that changing the election to November could affect the ruling from the 1992 Federal suit that changed the member makeup of Council.

Mr. Middleton commented that national elections were held in November, suggesting that individuals running for a City Council position would not get much media attention with the national election going on, because the national elections dominate the media. Concern was expressed by some that a lot of people vote straight party and the City Council candidates could be passed over.

Mr. Mullins commented that odd number years typically had a number of constitutional amendments on the ballot in November. There was usually a low voter turnout, so it would be helpful to have city elections to draw people to the polls.

Mr. Pruitt advised that if their amendments to the charter passed at the election in May the term limits would apply to the newly elected Council members. They would be grandfathered and their two three-term limits would begin at that point. The only position that would then go on the November ballot would be the office of City Attorney.

Cm. Polasek commented that there seemed to be a lot of ambiguity in the wording of the charter amendment proposals, and expressed fear that because of that, there could be litigation down the road. Mr. Pruitt stated that they wanted representatives that would represent the people.

Ms. Steen referred to the report by the Charter Consultant, Charles Zech, which indicated that over 76% of the cities in Texas had no term limits in their charters. Cm. Halepaska inquired

whether a Council person could run for Mayor after serving two terms on Council. Mr. Pruitt indicated that the way the amendment was worded they would not be able to run again. Jan Scott inquired if that was the intent of the group, and if that individual wanted to stay in public service the citizens would get the short end of that.

Mr. Mullins commented that a number of charters he had seen appeared to have been taken from the same cookie cutter, specifically the provisions concerning the handling of petitions for initiative, referendum, and recall. Several on the committee suggested that it could be because it was a good idea.

Mr. Pruitt addressed the issue of spending taxpayer money to defend indicted officials. He referenced a ruling from Art Pertile, the attorney that gave advice to the Council concerning that issue. The City Attorney was instructed to bring a copy of that ruling to the next meeting. Jack Mullins also requested a copy of the court ruling that Mr. Pertile cited during his presentation.

Cm. Polasek questioned the language of the proposed amendment, suggesting that the way it was worded if anyone in the Police, Fire, or any other City office had ever been indicted they would never be able to serve in that capacity. Cm. Wyatt commented that some of the terminology may have unintended consequences.


Mr. Pruitt stated that it was not their intention to keep from paying people, but if legal expenses were necessary it would have to go to the voters. Mayor Armstrong questioned whether it would be at a May election or November election. He pointed out an unintended consequence that could occur; if an employee were indicted for something that was a part of their duty. It would prohibit people with assets from running for office because of the charter recommendation. He wanted the Police and Fire to know that the Council would stand behind them when they were doing their duty. It would bankrupt those involved over an extended lawsuit or appeals that could follow.


Cm. Hagan commented that the City and City officials were protected from lawsuits and civil litigation. A criminal indictment was a totally different thing and taxpayers should not be paying for those legal fees.

Ms. Scott commented that the only rational for putting this in the charter at this point was that they must be expecting a number of the future Council people and employees to be indicted, and perhaps that would be because of term limits.

Mr. Pruitt responded that the group felt they were protecting the taxpayer by putting that in the proposed charter amendment because the Council had already done it for City officials.

With no further business, the meeting was adjourned at 4:52 p.m.

APPROVED: 
WILL ARMSTRONG, Mayor of the City of
Victoria, Texas

ATTEST: 
SCARLET SWOBODA, City Secretary
